

REMARKS

The Claim Amendments

Applicants have amended claims 9 and 11-15 to recite that the adenovirus gene in the vector is under the transcriptional control of a sequence comprising SEQ ID NO:1. This amendment is supported in the application as filed. *See, e.g.*, page. 9, ¶ 38; page 30, Example 2, ¶¶ 113-114; and page 31, Example 3, ¶¶ 115-117. The Examiner has, indeed, acknowledged this support. *See, infra*, page 9. These amendments are specifically without prejudice to applicants seeking claims to the cancelled subject matter in other applications claiming priority or benefit from this application.

The Rejections

The above claim amendments overcome the rejections. They adopt suggestions of the Examiner. And, they place the application in the better form for appeal. For all three reasons, their entry is requested under 37 C.F.R. § 1.116.

35 U.S.C. § 112

(1) Second Paragraph: Indefiniteness

Claims 9 and 11-21 remain rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite. In particular, the Examiner points to the term “prenylated protein tyrosine phosphatase” in claim 9. The Examiner also points to “said” in line 4 of claim 9.

Applicants traverse. However, solely to advance prosecution, applicants have amended claim 9, and the claims that depend therefrom, to avoid the objected to terms. This amendment overcomes the § 112, second paragraph, rejection. Accordingly, applicants request reconsideration and withdrawal of the indefiniteness rejection.

(2) First Paragraph: Written Description

Claims 9 and 11-21 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking written description. In particular, the Examiner argues that the December 27, 2006 claims contain new matter: (1) “prenylated protein tyrosine phosphatase,” and (2) “wherein said sequence is obtained from ... and has the transcriptional regulatory factor activity of the PRL-3 TRE sequence.”

Applicants traverse. However, solely to advance prosecution, applicants have amended the rejected claims to overcome the rejection. As amended, the claims recite a vector in which the adenovirus gene is under the transcriptional control of a sequence comprising SEQ ID NO:1. Those vectors are specifically described and exemplified in the application, as filed. *See, e.g.*, Examples 2 and 3. Accordingly, applicants request reconsideration and withdrawal of the written description rejection.

(3) First Paragraph: Enablement

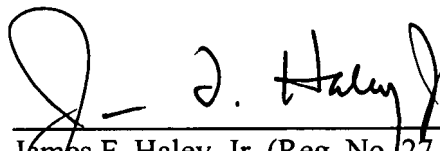
Claims 9 and 11-21 remain rejected under 35 U.S.C. § 112, first paragraph, as allegedly lacking enablement. In particular, the Examiner contends that, while the specification enables a PRL-3 TRE sequence comprising the sequence of SEQ ID NO:1, it does not enable sequences “derived” from that sequence.

Applicants traverse. However, solely to advance prosecution, applicants have amended the claims to recite a vector in which the adenovirus gene is under the transcriptional control of a sequence comprising SEQ ID NO:1. This is subject matter that the Examiner has acknowledged is supported in this application. Thus, it overcomes the rejection. Accordingly, reconsideration and withdrawal of this rejection is requested.

CONCLUSION

Applicants request reconsideration of the amended claims in view of the foregoing remarks. Early allowance of those claims is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J. F. Haley, Jr.", is written over a horizontal line.

James F. Haley, Jr. (Reg. No. 27,794)

Attorney for Applicants

c/o ROPES & GRAY LLP

Customer No. 1473

1211 Avenue of the Americas

New York, New York 10036-8704

Tel.: (212) 596-9000

Fax.: (212) 596-9090